HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.4082 OF 2007

Between:

The Mallapur Industrial Units Welfare Association,
136/D, IDA Mallapur, Hyderabad – 76, rep., by its
President

…Petitioner

AND

The A.P Pollution Control Board,
Paryavarana Bhavan, A-3,
Industrial Estate, Sanathnagar,
Hyderabad – 18, rep., by its
Member Secretary and three others

...Respondents

: O R D E R :

Counsel for the petitioner : Shri A. Sudershan Reddy

Counsel for respondent No.1 : Shri S.V. Bhatt

Counsel for respondent No.2 : Shri K.V. Simhadri

June 28, 2007

Per G.S. Singhvi, CJ

The Mallapur Industrial Units Welfare Association has sought intervention of this Court to nullify the action taken by the Andhra

Pradesh Pollution Control Board (for short, 'the Board') to stop production of industrial units situated at IDA, Mallapur, Ranga Reddy District, which have either not obtained consent under the Water (Prevention and Control of Pollution) Act, 1974 as amended in 1988 (for short 'the Water Act') and the Air (Prevention and Control of Pollution) Act, 1981 as amended in 1987 (for short 'the Air Act') or have not taken measures to check pollution caused due to their operation/activities.

In the affidavit filed by him, Shri A. Bhaskar Reddy, President of the petitioner association has generally averred that after obtaining layout from the competent authority, the Andhra Pradesh Industrial Infrastructure Corporation Limited (respondent No.2 herein) sold industrial plots and sheds to the members, who have set up about 190 industrial units, majority of which are small scale industries. Shri Bhaskar Reddy further averred that in last about 25 days, the Board has started issuing notices for stopping production and closure of industries on the ground of non-compliance of the provisions of the Water and Air Acts and if this is not halted, about 8,000 employees will be rendered jobless and livelihood of nearly 40,000 people will be affected.

In response to notice issued by the Court, the Board and respondent No.2 have filed their respective counters. In the affidavit filed by Shri Rajeshwar Tiwari, Member Secretary of the Board, it has been averred that industrial activities of those units which are operating without consent have been stopped after giving notice to the affected persons. Paragraphs 2 to 5 of
Shri Tiwari's affidavit, which contain the details of the stop production orders and closure orders, as also the details of revocation orders passed by the Board in respect of the units, which have complied with the provisions of the two Acts, are extracted below:

> 2. I submit that the Mallapur Industrial Development Area was established in the year 1986 with an area of 197 acres to cater the needs of chemical and pharmaceutical industries and declared as

Chemical Zone. There are more than 81 industries located in IDA Mallapur in which majority of them are small-scale units. List of Industries is annexed as Ex.R-1/1 and I crave leave of this Hon'ble Court to peruse the same as part of this Counter Affidavit for all purposes. This respondent /Board in collaboration with ASEM Indo-German Project has identified IDA Mallapur as one of the IDAs for developing Eco-Industrial Estates for waste management.

3. I further submit that on 29.12.2006, this Hon'ble Court in W.P.No.28094 of 2006 was pleased to direct this respondent/Board to depute an officer of the rank of Environmental Engineer to inspect the subject site and submit the status report. In obedience to order of this Hon'ble Court, this respondent / Board constituted two monitoring teams on 16.1.2007 to monitor the industries located in IDA, Nacharam and IDA Mallapur for a period of one month. Subsequently, this respondent / Board has submitted the interim report on status of Industries in IDA, Mallapur on 13.2.2007 to this Hon'ble Court and requested for two more weeks time to enable this respondent / Board to place the final report on action taken on the erring industries. This Hon'ble Court vide its order dated 14.2.2007, was pleased to direct this respondent / Board to submit the action taken report by 28.2.2007. In pursuance of the order dated 14.2.2007, this respondent / Board has issued letter to all the industries on 19.2.2007 and called for legal hearing by giving two days time i.e. on 21.2.2007. After careful scrutiny of each and every industry, this respondent / Board has passed/issued the following orders / directions:

a) Closure orders to 11 industries for operating industry without CFO/CFE of the Board and not providing air pollution control equipment under Section 33 (A) of the Water (Prevention & Control of Pollution) Act, and under Section 31 (A) of the Air (Prevention & Control of Pollution) Act on 22.2.2007.

b) Stop Production Orders to 15 industries for operating the industry without valid consent of the Board under Section 33 (A) of the Water (Prevention & Control of Pollution) Act and under Section 31 (A) of the Air (Prevention & Control of Pollution) Act.

c) Directions to 12 industries in IDA Mallapur, Ranga Reddy District.

The members of petitioner-Association are to operate within the four corners of law. The establishment of ETP or Air Pollution Control Equipment is the sole responsibility of the industries/units.

4. I further submit that this respondent / Board after inspection with regard to installation of pollution control equipments and

compliance of directions by the industries, reviewed the status of industries and issued revocation/ temporary revocation of closure orders and revocation of stop production orders case by case. The status of industries issued with revocation of closure orders / stop production orders in Mallapur Industrial area is annexed as Ex.R-1/2.

5. I further submit that so far as the allegation that "1st respondent issued closure orders only to enable the Board to file status report" is untenable. I submit that it is mandatory to have valid consents of the Board to operate an industry under Section 25/26 of the Water (Prevention & Control of Pollution) Act, 1981. Those of the industries operating without valid consents of the Board were issued closure orders. Hence, the Board has taken action on the defaulting industries."

In the counter filed on behalf of respondent No.2, Shri K. Sathaiah, Manager (Law) has averred that the plots were allotted to the members of the petitioner association on their furnishing an undertaking to obtain No Objection Certificate from the Board and that they have to make their own arrangements for drainage facility and for affluent treatment.

Shri A. Sudershan Reddy fairly conceded that the industrial units cannot be operated without complying with the mandatory provisions of the two Acts and other environment related laws, but argued that it is extremely difficult for small scale industrial units to establish separate effluent treatment plants. He then submitted that the Court may direct Hyderabad Metropolitan Water Supply and Sewerage Board to establish common effluent treatment plant so that the individual industry may not be required to establish separate effluent treatment plant.

Shri S.V. Bhatt, learned counsel representing the Board opposed the request of Shri Sudershan Reddy and submitted that common effluent treatment plant can be established only for the purpose of treating the effluents but each industry will have to take measures for ensuring that the emissions are within the parameters specified in the Air Act and other related provisions enacted under

the Environment (Protection) Act, 1986 (for short, 'the 1986 Act').

Having considered the submissions made by the learned counsel, we deem it proper to dispose of the writ petition with the direction that the petitioner may approach Hyderabad Metropolitan Water Supply and Sewerage Board for establishment of common effluent treatment plant for its members and the concerned authority shall take appropriate decision within three months after consulting the Board. Ordered accordingly.

However, it is made clear that establishment of common effluent treatment plant will not relieve any of the members of the petitioner – association of their obligation to comply with the provisions of the Air Act and the related rules made under the 1986 Act.

We also hope and trust that in future the functionaries and authorities of the Board will not allow even a single industrial unit to operate in the area which does not comply with the provisions of the Water Act, Air Act and the rules framed under the 1986 Act.

As a sequel to disposal of the writ petition, WPMP Nos. 5211, 5212, 5213 and 5214 of 2007 filed by the petitioner for interim relief are disposed of as infructuous.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

June 28, 2007
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